

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Alfonzo FAULK, :
 :
 Plaintiff, : ORDER
 :
 -against- : 08 Civ. 1668 (GBD) (MHD)
 :
 NEW YORK CITY DEP'T OF CORR., :
 et al., :
 :
 Defendants. :
 :
 -----X

MICHAEL H. DOLINGER
UNITED STATES MAGISTRATE JUDGE:

4/5/10

1. There is currently pending a motion to amend the complaint. Although filed by plaintiff's former attorney when she was still counsel of record, it has not been withdrawn. (See Docket Doc. # 36). By no later than **FRIDAY, APRIL 16, 2010**, plaintiff is to advise the court in writing whether he wishes to proceed with the motion or withdraw it. If he fails to respond, the motion will be deemed withdrawn, in light of former counsel's advice that she intended to withdraw the motion. (See Nikia L. Way, Esq. Letter to the Court, Feb. 1, 2010).

2. If the motion is withdrawn, defendants who have been served with process are to respond to the current complaint by **FRIDAY, APRIL 30, 2010**. If the motion to amend is not withdrawn, defendants are to respond to it by **FRIDAY, APRIL 30, 2010**.

3. Defendants Officer Reyes and Mr. Etere, Legal Coordinator have not been served with the summons and complaint and more than 120 days have elapsed since the filing of the complaint. Accordingly, plaintiff is to show good cause by affidavit or declaration why he has failed to comply with the requirements of Federal Rule of Civil Procedure 4(m) that service be made within 120 days. This is to be done by **FRIDAY, APRIL 30, 2010**. In the event that plaintiff cannot demonstrate good cause or accomplish service in the interim, the undersigned may recommend dismissal of the complaint without prejudice.

**DATED: New York, New York
April 5, 2010**

SO ORDERED.



**MICHAEL H. DOLINGER
UNITED STATES MAGISTRATE JUDGE**

Copies of the foregoing Order have been sent this date:

BY FACSIMILE TO:

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